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ABSTRACT

Adversarial collective bargaining often leads to lingering resentments. Collaborative bargaining, conversely, is a problem-solving approach to contract negotiations based on common interests and mutual respect. Recognizing the interrelationship between trust at schools and trust at the bargaining table, a growing number of school districts are seeking alternatives to the typical adversarial bargaining methods. This bulletin, by looking closely at the collaborative bargaining approaches used in two Oregon school districts, attempts to outline procedures a district and union can follow toward the adoption of a collaborative model. Interviewees included the superintendents of the West Linn School District and the Oregon City School District and the director of the State of Oregon Conciliation Services. All agreed that to facilitate fruitful negotiation, both sides must adopt the goal for everyone to win, not for one party to win and the other to lose. Recommendations covering before, during, and after bargaining are made to administrators and teachers who wish to incorporate aspects of the collaborative approach in their collective bargaining. Ten references and a list of persons interviewed are included. (MLF)

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Collaborative Bargaining in Schools: Case Studies and Recommendations

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Demetri Liontos

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Preface

A characteristic of effective schools is a cooperative or collegial work environment in which teachers and administrators work together to improve their schools. The administration and the faculty place a high degree of trust in one another's motives and expertise and interact freely and frequently in the process of improving the instructional program.

It is no secret that these collegial relationships can be severely undermined by disharmony at the bargaining table. Trust that takes years to build among the personnel in each school is one of the first casualties of a districtwide labor-management conflict. Recognizing the interrelationship between trust in the hallways and trust at the bargaining table, a growing number of school districts are seeking alternatives to the typical adversarial bargaining methods.

This Bulletin, which looks closely at the collaborative bargaining approaches used in two Oregon school districts, is an attempt to begin to outline procedures a district and union can follow toward the adoption of a collaborative model.

Demetri Liontos, commissioned by the Oregon School Study Council to write this Bulletin, is a freelance writer who also has taught classes at both college and secondary school levels.

Philip K. Piele
Executive Secretary

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Introduction

In an era of riots, hostage-taking, and international terrorism, teachers' strikes and labor disputes often take a back seat to more violent conflicts. Yet, few things touch the heart of a community as much as unrest in its schools. When the delicate balance of our educational well-being is disturbed, everyone is affected–children, parents, educators, taxpayers. And everyone, it seems, in addition to having an opinion, has questions that need to be answered: How can this happen? What's the problem? Why can't they settle things peacefully? Although not always verbalized, the underlying thought running through many people's minds is, "These are educated people who ought to know better."

The dynamics of resolving conflicts have a lot to do with "knowing better." In Oregon an increasing number of school districts are gradually replacing the traditional confrontive or adversarial approach to collective bargaining with a cooperative or collaborative one. The results have been encouraging. "There's a real move to do that now," says John Vale, head of the state Conciliation Service. "It's really an interest on both sides, staff and management, that might have been there three or four years ago, but not as prominent as it is at present."

In *Getting to Yes*, authors Roger Fisher and William Ury advocate a "principled" approach to conflict negotiation. Proposing an atmosphere of cooperation rather than confrontation, they believe that ultimately what the negotiator should seek is a better *way* to negotiate. Ideally, this approach to negotiation would enable each side to get its needs met without losing respect for the other side, a frequent occurrence in traditional bargaining.

The elements of collaborative bargaining and the success that some Oregon school districts–notably Oregon City and West Linn–have had using this approach are the subject of this Bulletin. In a sense, this is an update of a previous Oregon School Study Council Bulletin by Marilyn Pheasant titled *Theory Z Bargaining* (March 1985). The process described in that Bulletin was developed by Donald L. Charles when he was superintendent of North Clackamas School District and subsequently of Lake Oswego School District.

Through interviews with superintendents and others, and documentation from current publications on the subject, a case is made here for the viability of

the collaborative approach to collective bargaining. First, the problem of labor negotiations in school districts is discussed, followed by a chapter detailing the success of Oregon City and West Linn School Districts using the collaborative method. A subsequent chapter deals with elements common to collaborative bargaining. Finally, recommendations are offered for educators who may wish to adopt features of the collaborative approach.

Chapter 1

The Problem: How to Reach Agreement without Giving in

In a tug of war—after a period of struggling back and forth—one side pulls the other over the line. As in all competitive endeavors, one side wins, the other loses. In collective bargaining, part of the problem is that "the players" often see themselves as members of one of two opposing teams engaged in a win-lose match. And when two opposing teams meet, it is not unusual for them to incur some damage.

In adversarial negotiations, things like collegiality, beliefs about one's profession, and even self-respect are sometimes damaged severely. Given the rules of the game, however, this is not too surprising. It is not the rules that need to be changed but rather the game itself.

Working with an Outdated Model

One of the problems in attempting to make changes in teacher-administrator interaction is the model that the school system itself is based on. Dea Cox, superintendent of West Linn School District, believes schools today are caught in an outdated structure:

> What we've done is to build the school system to reflect an industrial model. Then just at the time society was moving out of this model, we in the schools laid in the very essence of labor management in terms of an industrial model. The schools always reflect society, and as long as we were an industrial society that's what the schools reflected. It's ironic that we finally developed an incredible school system to serve an industrial model as the industrial society moves out!

For Cox, who spent a year studying labor relations at Harvard, the problem goes beyond labor-management interaction; it is a question of relationships throughout the entire school. In any organization with comlex, interwoven relationships there are bound to be conflicts. Given the model that schools are currently based on, these conflicts are often comceptualized in terms of "us and them." This mindset fosters a competitive rather than

cooperative spirit in resolving differences. A win-lose situation occurs. It is when such conflicts are codified into proposals and reach the bargaining table that the adversarial system is put to the test.

In *Collective Gaining: An Alternative to Conventional Bargaining*, educator Richard Wynn suggests that when participants interact "in a truly collective and collaborative transaction" both sides stand a chance to gain, and the result is peace, not war. On the other hand, he believes conventional bargaining often promotes irrational or unethical behavior—such as lying, hypocrisy, secrecy, and threats—in attempts to gain power at the expense of reason. "These behaviors," says Wynn, "tend to permeate the organizational climate and sow the seeds of anti-intellectualism, a singular tragedy in educational institutions, which should be bastions of intellectual life."

These kinds of anti-intellectual behaviors in the framework of an industrial-union model can shift the focus for teachers as they attempt to negotiate agreements. Douglas Mitchell, director of policy support services for the Far West Laboratory for Educational Research and Development, believes that this "very effective but limited" model forces teachers "to concentrate on limiting teacher work obligations and strengthening their job security through a system of work rules—rules that gradually reduce flexibility and deny teachers ultimate responsibility and decision making authority." The perception that teachers have of themselves is, therefore, an important factor in how they will proceed through the collective bargaining process.

Workers or Professionals? An Image Problem

There is little doubt that collective bargaining has brought increased benefits to millions of workers in the Western world. Working conditions have generally improved, salaries have increased, grievances have been accorded a due process. For teachers this has meant an attempt to equalize the power between themselves and the administration, and to acquire rights similar to those found among private sector employees. The question then arises: Do teachers view themselves as "workers" or as "professionals"?

Since 1973 when the Collective Bargaining Act was passed in Oregon, an increasing number of teachers unions have confronted their school boards in legally sanctioned labor disputes. About a dozen of these confrontations have resulted in strikes ranging from a few days to nearly a month in length. Recently, the Eugene School District suffered the longest teachers' strike in Oregon history—a work stoppage of twenty-two school days over a thirty-four-day period. Ray Gross, outgoing president of the 1,200-member Eugene Education Association, believes that despite difficulties posed by strike action, teachers would like to view themselves as "professionals in the way traditional professionals do." But there is a dichotomy, says Gross, "because the school district is always going to be in a position to manage. We're always going to have managers to contend with, and that's going to restrict our ability to

operate in what people typically consider a professional manner."

Dea Cox argues a different point. While many teachers consider themselves "professionals working in a profession," the Collective Bargaining Act may have changed the view of some teachers. "There's a sense," he says, "that some teachers—not most—see themselves a blue collar workers. They approach their tasks from a blue collar perspective." He believes this can sometimes encourage unions to become more belligerent in order to attract those teachers to their cause. And when unions gain more power, the tendency historically has been to use that power to confront management.

Negotiating Styles Can Make a Difference

A premise put forward by Eugene management consultant Chuck Pyron is that "teachers do not want to run the school district, but they do want to be treated with professional respect and to receive fair pay." While few teachers would disagree, the road through negotiations on how to achieve this is sometimes rocky. Many teachers and administrators become more entrenched in the adversarial style—often adopting extreme and intransigent positions–while others explore less combative routes.

One reason the adversarial approach is popular is that it works. Almost all public employee labor disputes in Oregon and beyond are settled using the traditional labor versus management scenario. Since the Oregon labor statutes governing public employees went into effect fourteen years ago, state mediators have been called in to work on nearly 5,000 disputes. They have helped to settle 84 percent of these at the mediation stage (many were settled in fact-finding). Only twenty-six cases ultimately resulted in strikes—remarkably, almost half of these in the public school system.

While the Eugene district was experiencing its bitter dispute, across the river in the Springfield School District a three-year contract was signed with little fanfare and no acrimony. While the bargaining approach in Springfield is also conventional or adversarial, according to Curtis Huey, director of personnel, it does contain "cooperative elements":

> If I believed that I needed to take some step that the collective bargaining process would permit, I think they'd understand that I would protect the district's interests. From that viewpoint we're talking adversarial. From the viewpoint of what I consider to be respect and understanding and the need to listen, to make sure I understand them and they understand me, it's cooperative. But the parties have to look after their own interests, that's the intent of the collective bargaining law.

But while the adversarial approach generally works, when it doesn't the confrontive dialogue used in the process can damage, often irreparably, the close relationships so vital to the educational process. This is especially true in disputes of long duration and those culminating in strikes. But what's the

alternative?

The next chapter tells about two Oregon school districts—Oregon City and West Linn—that have successfully changed from an adversarial to a collaborative negotiating style.

Chapter 2

Two Oregon Districts Develop Collaborative Solutions

While the use of collaborative bargaining methods are far from widespread, a number of school districts are showing an increasing interest in adopting such solutions to recurring labor problems. Here, two superintendents—at Oregon City and West Linn—describe their success in changing hostile, adversarial situations to productive, cooperative ones in their respective school districts.

Oregon City Turns Around a Bitter Situation

> I have a belief in human nature: that people would rather do things peacefully than at war. If you view bloody-each-other's-nose-type bargaining as warfare, I think people would rather be at peace. If you can accomplish the same objectives in a peaceful fashion, I think that's the way people would rather do it. And once people have gone to "war"—which is a strike, or close to it—then they see the value in doing things peacefully.

Charles Clemans, superintendent of Oregon City School District, says his faith in human nature has been vindicated through a number of contract negotiations during his seven years as superintendent of the district.

When Clemans arrived on the scene in 1980, a long period of hostility and difficult negotiations had culminated in a settlement earlier that year. Part of the contention at Oregon City had to do with the formation of the Willamette Falls Bargaining Council, a unit that also included West Linn and Lake Oswego.

"That was the dispute," says Clemans, "whether the board had to recognize the W.F.B.C., or could they limit their recognition just to the Oregon City Education Association, which is only part of the council." The Employment Relations Board resolved the issue by declaring that in bargaining situations the board had to recognize the council as a whole, a factor that

contributed to the early period of acrimony and protracted deliberations. There were also a number of unfair labor practice charges that further delayed the process. But by the spring of 1980, a settlement had been reached short of the fact-finding stage, and a three-year contract was signed.

"Everyone was greatly relieved," says Clemans. "It was a three-year contract, but recognizing the fact that they had bargained for a long time (sixteen months), one of the years had almost expired when they settled. So, in effect, it was only a two year contract that I inherited."

Ground Rules Set the Tone

Clemans had been superintendent for a year before the classified employees' contract came up. This posed no problem, however, because negotiation of the classified contract "was very peaceful and had always been done in a collaborative, cooperative way." The Oregon City School Board at the same time had established several goals; one was peace in labor relations. The following year Clemans met with the teachers union leader and the UniServ representative to discuss ways to reach agreement in less time and with less acrimony. Clemans then presented his proposal to the board and they accepted it.

"Here, we're talking about two things," he says, "the form and the substance. As far as the substance is concerned, we spent a lot of time talking to the staff." One of the things Clemans suggested in his talks was that individuals keep a "tickler file" of problems encountered in administering the current contract. He also invited them to make comments, particularly in administrative meetings, so that when contract language was finally discussed and things needed to be amended, there were specific notes and references that could be presented to support any claims.

As for the form, that was something that evolved as they went along, Clemans says, but with some ground rules. One rule was to limit the number of people in the negotiating room to three on each side. Another restriction was an *a priori* agreement by both sides that while they should move toward a less adversarial approach, each reserved the right to return to conventional bargaining if progress was not satisfactory. In this kind of process, "you've got to have a bail-out provision," says Clemans. "If things don't work out, you have to go back to square one and start the whole process over again. And the only thing that holds you there sometimes is the fact that you've got so much time and effort invested in it, and you don't want to waste it."

Spreading Responsibility Saves Time at the Table

At the bargaining table each side agreed not to come up with a flurry of proposals and counterproposals. Instead, each major issue was discussed and contract language actually written—legibly, in longhand—at the table. A key

point, Clemans feels, was not to leave anything unwritten or "not nailed down." Contract language was finished in final detail, clarified, and signed off before adjourning. Finally, a comprehensive set of "intent notes" was also agreed to and signed; these formed part of a bargaining notebook kept by each participant.

Part of the strategy was not to try to accomplish everything at the bargaining table but to designate people who had expertise or a stated interest in the issue under discussion. This served the dual purpose of involving more (and perhaps more knowledgeable) people in the negotiations, and it saved time at the table. The result, he says, was that "whatever our group would bring in the door, we would subscribe to. It wasn't something that was going to start the battle all over again."

For example, on the issue of salary increment cost, each side chose a person who had expertise in finances and credibility with his or her peers. Putting their trust in two respected people—the district business manager and the head of the math department—the negotiating committee agreed beforehand to accept whatever figure they came up with as reasonable and nonnegotiable. This strategy ensured there would be parity and honesty in the calculations.

Chuck Clemans sums up his experiences with collaborative bargaining at Oregon City with this vivid analogy:

> This kind of bargaining is somewhat like the old parlor game where you get a bucket of water and put it up against the ceiling, and you're holding it up there and then everybody goes off and leaves you. You can get out of it all right but you're going to get wet. The fuller the bucket gets, the less likely you are to jump out from under it. You think carefully before you pull the plug on all that work you've already invested in.

Trust-Building Yields Positive Results at West Linn

When Dea Cox took over as superintendent of West Linn School District in 1978, bargaining sessions were in progress between teachers and the school board. Negotiations had in fact been going on for a long time without a settlement in sight; the tone was clearly adversarial.

The turning point, Cox feels, occurred when he began sitting in on the negotiations as an observer. At one session, he remembers, a board member responded tangentially to a question asked by a member of the teachers association team. Cox quietly intervened, saying to the board member: "You didn't answer Marilyn's question. If you folks are going to solve this issue, you're going to have to listen to each other. Now, Marilyn, say it again." This time the board member addressed the question and communicated a clearer understanding of the issue. The logjam had broken. "Just a little thing," admits Cox, "but the teachers read that as the most positive thing to come from a superintendent—that he'd be willing to tell a board member to pay attention."

This seemingly minor incident began to give the new superintendent credibility as a person who cared about the feelings of his staff. Cox in fact spent his first six months talking to every teacher and to hundreds of townspeople, modeling the kind of openness he felt belonged in schools. His warm, informal style soon won the trust of staff and board members, and his emphasis on problem-solving later yielded positive results in the bargaining process.

Informal Style Becomes a Feature

A good example of Cox's open style came through in one of his meetings with UniServ representative Roy Dancer. At that point they were not yet into a cooperative form of bargaining, Cox recalls, but the seeds had been sown:

> I met with Roy Dancer and said, "You know, Roy, I can take a piece of paper and write on it what it is that we're going to come out with and I'm not going to be very much off. And you can take a piece of paper and do the same thing and it's not going to be very much off." He said, "Yeah, we can do that." So I said, "Then why go through weeks and months of fussing and fighting about it? Why don't we sit down you and I and draw up what the settlement is going to be? I bet we can have all that done in about an hour." In essence, that's what we did.

One of the ground rules was that if they could not reach agreement in an afternoon, the process would revert to the conventional bargaining format. With a time incentive, and restricted issues and players, the teams agreed to focus on solving problems, and a settlement was soon reached. Those early attempts laid the foundation for the collaborative approach now in place at West Linn.

The informality and openness that Cox espouses are an integral part of the district's current style of dealing with issues and concerns. Every month a "problem identifying" group of staff and administrators meets to discuss ways of reaching solutions, often setting up subgroups to tackle specific problems. For example, a grievance process that was written into the contract now allows for early grievance hearings that make it easier to nip problems in the bud.

Issues Are Aired Prior to Bargaining

Processes are in effect at West Linn that allow people to express openly their concerns in an atmosphere intended to defuse potential conflicts. As Cox puts it, it's "another key to cooperative bargaining—at least as we do it—that we approach every problem as wanting to negotiate a settlement on it." District personnel feel that they have an ongoing forum where they can be heard and are treated fairly, a point that Cox believes is vital. "We continue the process constantly," he emphasizes, "and that's the thing that we do differently. We don't let our negotiations build up; we negotiate every day."

The process pays off. With input from the monthly problem-identifying groups, a number of minor issues are aired and dealt with prior to formal bargaining. Solutions are sought by both teachers and the administration as concerns arise, thereby leaving the major issues of salary and fringe benefits for the formal sessions. By this time, however, a strong trust between union and administration has been built and the players are ready to deal with the issues and with each other in an open, equitable way.

Over the years, the negotiating teams at West Linn have grown but are still a workable size. The West Linn Education Association is represented by a UniServ representative, while Cox leads the district team. As with Oregon City, a basic ground rule here has been a willingness to discuss almost any issue but with the understanding that some issues are nonnegotiable. "That's a board prerogative," states Cox, "because the association wants negotiations to be as broad as possible. I allow that, but these meetings don't mean a thing unless we get an agreement. And if we can't (at this stage), then we go back to traditional bargaining."

In Cox's nine years as superintendent, a process of collaboration was founded and nurtured to yield positive results. With the incentives of reaching agreement in an informal, relatively amicable way, and an agreed-to ten-hour limit, participants have made efforts to "remain in a cooperative mode" to achieve a settlement they both can live with and even be proud of.

Although the individual procedures used by the Oregon City and West Linn School Districts may differ in some minor ways, there are a number of elements common to both. These, along with other instances, are discussed in the next chapter.

Chapter 3

Elements of Collaborative Bargaining: More a Process than a Formula

If we were to think of labor disputes in schools as family arguments rather than wars, this perspective might facilitate conflict resolution. In negotiation within families, as in all fruitful negotiation, the goal should be for everyone to win, not for one party to win and the other to lose. But both sides must adopt this perspective, otherwise discussions will soon degenerate into a combative mode. A genuine desire to resolve problems and reach equitable agreement ought to be the goal of negotiation, whether it is taking place in families or in schools. For, as Richard Wynn notes, "unless both parties have incentives for resolving or controlling conflict, the prospects for win-win solutions are poor."

In his role as superintendent at West Linn, Dea Cox began to view schools as political entities that are governed by the superintendent with the consent of the governed rather than in an authoritarian manner. "If you see your leadership not as a positional one," he says, "but as a leadership that somehow grows out of the consent of the staff, then it becomes a persuasion art, a communication art. It sets up different dynamics in the organization, and I think those dynamics have a lot to do with cooperative bargaining." The dynamics affect the climate of the whole organization, he adds, and the style of bargaining "grows out of everything else we do."

This model of "shared governance" at West Linn involves teachers, the teachers union, and its leadership in the operation of the district. Teachers participate in setting district goals, solving current problems, establishing priorities, and determining how resources are allocated. The key to the effectiveness of this relationship, Cox believes, is governance: understanding how the dynamics in the organization are affected when teachers share in the decision-making process.

Respect and Trust: Cornerstones of the Process

As early as 1974—just one year after the collective bargaining statutes were passed—Don Charles, who was then superintendent of North Clackamas School District, put forth a simple proposal that contained the essence of cooperative approaches being used today. As described in the Oregon School Student Council Bulletin of March 1985, the proposal contained five elements: First, each side–administration and teachers—would bargain without an outside negotiator. Second, each side would be represented by a team of no more than eight members. Third, teachers would bargain only on locally relevant issues. Also, there would be monthly meetings to discuss current problems, a sort of "continuous bargaining" aimed at maintaining clear lines of communication and preventing misunderstandings. Finally, by mutual consent, the parties could renegotiate the contract whenever necessary.

The plan came on the heels of two years of bitter negotiations at North Clackamas and was readily accepted by the board and the teachers association. The results were remarkable: the acrimony and hard-line stance of previous years were replaced by a spirit of trust and cooperation, an attitude that prevailed for several years. Charles later became superintendent at Lake Oswego and successfully implemented a similar collaborative approach there.

It would be unrealistic to expect school districts looking for alternatives to adversarial bargaining to change styles overnight. A climate of honesty and trust must first be created between administrators and teachers, Charles believes. Both sides need to work together to achieve a sense of cooperation and mutual trust. Only when this foundation is laid can formal sessions be attempted. "I believe," says Charles, "that there has to be the establishment of cooperative working relationships before you can get to the formal things that are going to improve documents." And so it is reasonable to expect that both parties need to learn new ways of relating to each other. This process of reorientation requires an investment of both time and energy, in addition to a belief that things can be different.

Chuck Clemans at Oregon City concurs. He puts stock in the trust-building interaction that occurs long before bargaining time. Early in his tenure, one of the first things that called for collaboration between teachers and administrators was the fight against tax limitation measures. In the wake of a united victory, a feeling that each side *could* work together cooperatively began to take root; this perception was one of the factors that eventually led to a turnaround in the teachers' contract impasse.

"If you can work together on things before the bargaining process," Clemans believes, "you give people the opportunity to feel each other out, have a relationship where you can genuinely find out if they can be trusted to follow through on their word."

As trust and mutual respect grow, the ante can be upped. For example, from one contract to the next at Oregon City, disagreements are resolved as they occur through the grievance process. This keeps issues from

accumulating and reduces the number of problems that are put on hold until both sides sit down at the bargaining table. "There's no magic in what we've done here," says Clemans, "and we're as vulnerable as anybody to have stuff fester. But we're not above going to a memorandum of understanding to resolve a contract problem and to use the grievance process to clarify language." With a strong underpinning of trust, the grievance process can be used "like courts interpreting law or the Constitution; it's attempting to put meaning to words."

Although Clemans points out that this is not like Charles's "continuous bargaining," the monthly meetings held between the Oregon City teachers union and top management serve as input time to discuss how things are going and to alert everyone involved to potential problems. No bargaining is carried on at these meetings, which accomplish the same purpose as the monthly "problem-identifying groups" at West Linn. The overall effect is a consolidation of trust in a process to which both sides have equal access.

To Negotiate is to Communicate

In *Getting to Yes*, Fisher and Ury make the point that without communication there can be no negotiation. All that negotiation is "is a process of communicating back and forth for the purpose of reaching a decision." They outline three major stumbling blocks to negotiation-communication:

1. Negotiators frequently don't talk directly to each other but rather to third parties or to their own constituents.
2. Even when they do talk directly to their counterparts, each is not listening attentively enough to play back what has been said.
3. What one negotiator says may be misinterpreted by the other.

For Curtis Huey, the recent settlement in the Springfield district avoided such stumbling blocks; agreement was reached largely through positive attitudes and clear communication. Dealing with people from within the school district, rather than with outside negotiators, fostered greater understanding of the issues at hand.

"It goes back," says Huey, "to the fact that we've had an open line of communication with members of our bargaining units and feel free to talk to each other. There's a feeling that the district knows their problems." In fact, discussions at the bargaining table are so open that the media and observers from member groups are welcome to attend. "We may not always agree on an issue," he adds, "but we always agree to keep the lines of communication open."

When Dea Cox was building an organization at West Linn that would facilitate solving problems and minimizing conflict, good communication was

at the heart of it. One of his rules is that there are no secrets at West Linn, that everything is kept above board:

> We run an open shop, and I think that's the beginning level of cooperative bargaining. If there are hidden agendas, if people don't really trust, if they think something's wrong, that they don't know the whole story, then there's suspicion buildup, and they will hold more of their cards back .... Good communication is critical, so that when people have grievances or things they're upset about, there are good ways to deal with that. So we've worked hard to build the kind of organization that is very open and has good communication lines.

Through this kind of communications philosophy, Cox and his staff have developed processes for solving many of the district's problems. During bargaining, for example, instead of negotiating an answer to a disagreement, a process for solving similar problems is devised. Both parties agree ahead of time to abide by whatever decision is reached through the process. "That's proved to be a pretty good strategy for us," he notes, "because when things get sticky we can usually develop a process for them."

Following the period of hostility at Oregon City, Clemans, as the new superintendent, recognized the need to emphasize new communication strategies. After bargaining on the first contract of his tenure, he was struck by the importance of keeping channels open between participants:

> I didn't recognize the first time around the need for broad and instant communication about what was happening in the bargaining process. That's true particularly with the board and your administrators, and especially important if you've come from a period of real hostility. To go from that suddenly to a period of collaboration, the reaction can be "My god! What's happening here?" Even if you don't think anything of note has happened, you ought to tell whatever happened at that session. So, frequent and clear communication to the board and to your administrators is really important. I suspect the teachers' side would say the same thing; they've got to be continually putting out information.

This kind of communication before and during bargaining leads to "more open interchanges and fewer theatrics at the table," Clemans believes. It helps both sides to focus on the real issues. In addition, minutes of all meetings are circulated to the membership, giving an accurate account of what is taking place. Keeping information flowing to each side about bargaining developments was a critical factor in the settlement at Oregon City. Using these channels, team members could call for more input and fresh ideas when needed.

One of the drawbacks, however, of collaborative bargaining is that it requires a better-than-average knowledge of communication skills, something many negotiators lack. To function effectively, participants on both sides need to articulate issues clearly and to listen actively for responses when proposals are presented. While there are a number of communication improvement programs available, there seems little in the way of formal training for

collaborative bargainers. As Clemans aptly puts it: "If you think you're ploughing new ground, it's pretty hard to go out and get a consultant to teach you how to do it."

State Conciliator John Vale is even more emphatic. He believes that things may get worse before they get better. However, as he says, "it doesn't have to happen that way. But if it does happen, there's going to have to be training available, and it's going to have to be mandatory because there are those that will not take it unless it is mandatory." Vale feels such a communications training program is long overdue for Oregon public employees, and that there will have to be professional followup assistance to help people "to get into it, to start developing it."

The Players and the Problems

From his Salem office Vale heads a state team of seven full-time mediators and fifty-six part-time arbitrators. The goal of his department is not only to provide immediate mediation/arbitration services, but to convince public employee groups, including school personnel, that they can solve their own problems. Some school districts, Vale says, habitually rely on outside help:

> Because of lack of training, lack of staff, or other reasons, they will never settle a grievance or contract until we get into it. They don't have the training to do it; it's just easier to let someone else come in and help them—and it's less time-consuming.

The reward for Vale and his staff comes when groups they have worked with eventually sit down and successfully work out their own grievances.

While much of what Vale does concerns mediating at the bargaining table, he believes that problems begin much earlier in the process, often at the leadership level. In districts where there is high turnover in the position of superintendent or where top-level administrators are weak, Vale believes "at some point there's going to be a challenge of authority." And this can be highly influential in determining whether a district is able to establish a cooperative bargaining approach or retains a confrontive approach. But when the leadership is strong, there's a greater degree of confidence in the process:

> Take someone like Dea Cox who takes great pride in the fact that those are his employees, and he is the one where the buck stops. That means he's not going to have an outsider coming in and running his district for him. You take that attitude and if we get into mediation, we know the authority is there. We know the settlement is going to come.

Another vital element in the cooperative environment is the strength of principals and other key administrators in the district. At West Linn, Cox has a strong cadre of middle managers who can handle a myriad of internal

problems with skill and sensitivity. And, as he points out, middle management plays a significant role in labor relations: "that day-to-day rubbing of shoulders with staff, showing sincere interest in their opinions, moving toward solving problems—we have that." Without such leadership, "you're going to be in trouble all the time."

Clemans also thinks the role of the superintendent is essential to collaborative labor relations. At Oregon City he has attempted to build trust and credibility "in all directions and for all purposes." But, unlike Cox, he reserves the right to remain on the sidelines when bargaining begins to minimize the likelihood of negotiations taking on adversarial overtones. Instead, he makes a conscious effort to remain in a helping mode, available to his negotiating team when needed. Only near the end does Clemans come into the bargaining arena and, rather than prolonging the process, he believes he helps to hasten it:

> If you maintain contact with both sides throughout the process, there's a sense that "Gee, when the superintendent starts dropping in, we must be getting pretty close to settlement" . . . that this must be more important stuff now because the superintendent is getting involved. You don't step in there with the idea that your bargaining team couldn't get the job done so you've come to do it for them. That's wrong . . . . Sometimes you go in because as superintendent you've got the ear of the board a little bit better, you can do a quicker job of communicating with the board and that might be useful.

Sometimes the problems overshadow the players. In the Eugene district, Ray Gross believes that a large part of the conflict that eventually led to strike action was due to a number of issues that accumulated over a five-year period. This backlog resulted in an original proposal that was "huge in terms of numbers of issues approached." The confrontation that ensued was a bitter one and differed from Gross's previous experience with adversarial bargaining. "I've been involved as a member of other associations that have bargained and it works," he states. "The history across the state is that it has worked very well, but it certainly didn't work here."

Despite the toll it took on everyone affected, some good did come out of the Eugene situation: a modest beginning toward a more cooperative approach. "What we've done collaboratively here," explains Gross, "is not our style of bargaining, but the results of our bargaining this time have in some ways turned toward a collaborative nature." One of the changes was the formation of a joint committee to deal with the currently hot issue of insurance and other fringe benefits. This committee, comprised of both teachers and district administrators, will evaluate concerns and make recommendations over a three-year period. "We've also decided to work together," adds Gross, "on work issues on a joint committee over the next two years." Recommendations made by this committee will be presented to the board for its consideration.

For Superintendent Margaret Nichols, the Eugene dispute pointed out the great need to find a new, nonadversarial bargaining model, one that could be

applied successfully to a large district. "I'm talking about collaboration or a win-win model," she explains, "where you negotiate to a mutually acceptable agreement." She is committed, she says, to working with the district's newly formed "future" committee, made up of teachers, parents, and administrators, to research and gather information on all existing collaborative models that work well, particularly in a large organization.

"The biggest concern I have," says Nichols, "is that everything I've read so far has to do with small school districts where they have the number of kids that we have of teachers." In a district with approximately 1,200 teachers distributed through elementary, middle, and high school levels, her concern seems justified. "If you have the whole staff in one room, that's different," she says. "It's a lot easier to use a collaborative decision-making model when you're not talking about very many people."

The process being used by Nichols and the committee in Eugene is to present one or two successful, nonadversarial models for consideration and possible adoption by the board and the teachers association. But, she cautions, it will have to be a model where the steps are clear, written down, and agreed to by both parties. It will also have to define the roles of employee groups, administrators, and the school board, in terms of district decision-making. And, given the size and complexity of the Eugene district, it "will have to be an ongoing sort of thing. Negotiations will have to be even more continuous than they may have been in the past," she adds.

Perhaps the key element in any negotiation is the *attitude* of the players. In his sixteen years of experience as a mediator, John Vale has seen a lot of labor strife. For him, in every case it is attitude that makes the difference and gets the settlement:

> The thing that's surprising is that once I get in there and explain to them that they are the players, they can resolve it, and if they want to then we'll get it done. It's that simple. Then behavior modification takes place from "We can't do it" to "Hey, we *can* do it, now let's go in and do it." You turn that clear around and they sit there and resolve it. And it happens every day.

Chapter 4

Conclusion and Recommendations

The experiences of Oregon City and West Linn School Districts with collaborative bargaining have shown it to be a viable alternative to the adversarial form each previously used. Both the results and the method of the collaborative approach achieved positive outcomes where conventional bargaining had failed. Hostility and acrimony were replaced by trust and cooperation, and a spirit of "Let's get the job done together."

Criticized as "soft" and imprecise by some, collaborative bargaining can in fact be firm and very precise in its outcomes. And, while adversarial bargaining may work in many instances, the cooperative environment required by collaborative bargaining pays off in dividends of increased trust of colleagues and greater teacher involvement in issues central to schools.

A growing number of Northwest school districts are seeking alternatives to the confrontive style of negotiating contracts. Some districts have developed their own version of collaborative bargaining, while others, such as Springfield, have taken elements of the approach and adapted them to their needs. Different districts have different bargaining styles; what's important is that each feels comfortable with its chosen style, and that the style works equitably.

The following recommendations may be of interest to administrators and teachers who wish to incorporate aspects of the collaborative approach in their collective bargaining.

Before Bargaining

1. *Build mutual trust before anything else.* Long before any bargaining or formal sessions take place, a strong foundation of trust and respect must exist. This can be built through a number of informal get-togethers, social events, and other school-related activities that give colleagues the opportunity to become acquainted on a personal rather than professional

basis. Specific trust-building activities may be planned. The development of trust takes time, but it is crucial because every ensuing action is dependent upon it.

2. *Enhance communication and negotiation skills.* It is unrealistic to assume that teachers and administrators are skilled negotiators. Most need to be trained in communication and negotiation skills—through courses, workshops, or outside consultants—to hone these abilities. A small but increasing number of such programs are becoming available; school districts need to send their bargaining personnel to them.

3. *Hold monthly meetings to identify problems.* The purpose of such meetings is to set up processes to solve problems—committees, task forces, resource people–to avoid a buildup of issues that can lead to conflict. Both teachers and administrators need to be represented; cooperation is the key here.

4. *Keep clear, complete notes.* Keep track of all issues raised, problems mentioned and resolved, input given. Then share notes (at department meetings, for example) with colleagues not present at monthly sessions. Broaden the communication base as much as possible.

5. *Make sure your concerns are heard.* Voice concerns to those who can do something about them. A good track record often starts here, with colleagues who say they care and back up their words with action.

6. *Get and share information about the process.* Let colleagues in other districts know what has worked for you in the past and what you're doing well now. Ask them to share elements of collaboration that they have had success with. Seek out current resources on the process.

7. *Choose team members wisely.* Choose people who not only have good interpersonal communication skills but who are respected and credible among their colleagues. The selection of representatives should be based on the issues under discussion. Keep teams small rather than large and unwieldy. Keep outsiders out, if possible; try to limit selection to people who work in the district.

During Bargaining

1. *Set time limits and have a bail-out provision.* Decide how long you think it will be necessary to spend on bargaining and stick to the set time. Be flexible, but if at any time during the bargaining either side feels progress

is not being made, then the process should shift to a conventional bargaining mode.

2. *Limit the agenda to essential issues.* Work out minor problems beforehand in less formal groups. Present only those issues at the bargaining table that genuinely need negotiating. Be prepared to scale down your expectations somewhat to maintain harmony. Avoid mixing emotions with concerns—separate the problems from the people and bargain strictly on the merits of your case.

3. *Don't try to accomplish everything at the table.* Designate individuals with expertise or interest to work out solutions to thorny or complex issues. Have enough faith in your delegates to accept their findings. Don't get bogged down on one primary issue; break it down into more manageable components. Maintain a principled approach throughout; these are people you will have to work with afterwards.

4. *Go for consensus voting.* Use active listening to understand your colleagues' arguments. Discuss feelings as well as facts, and try to work with the reservations some members may have on any given issue. Work toward consensus so that resentments are eliminated or at least minimized. Maintain perspective and control inappropriate emotions. Try to maintain a sense of humor. Humor can sometimes play a vital role in finding solutions to problems and in helping everyone to keep things in perspective.

5. *Agree on what to tell the media.* Stop rumors before they start; decide jointly on precisely what information to release to the media about your progress. Some districts write press releases jointly at the bargaining table; others designate members from each team to do this outside the regular bargaining sessions.

After Bargaining

1. *Take care of residual feelings.* Focus on what was achieved in the negotiations rather than on what wasn't accomplished. Encourage members who are discontent to air their feelings, and hear them out. Examine what might be done differently in future negotiations.

2. *Ascertain that agreements are being honored.* Create an evaluation group that verifies whether or not all agreements made at the bargaining table are being honored. As with other joint groups, try to balance faculty and administrator participation.

3. *Set up joint committees to handle important issues.* Identify problem areas that came up during bargaining, and be aware of new or current concerns. Solicit the help of interested faculty and administrators to work together on task forces that concern school- or district-wide issues. Try to involve parents in the process, if appropriate. Set up regular meeting times and establish dates to report to the principal or the school board.

4. *Keep the bargaining continuous.* Don't wait for issues to accumulate; resolve problems as they occur. Set up problem-solving meetings on a regular basis to clear the slate of grievances and unresolved issues. Try to deal with all the "nitty gritty" issues that might assume disproportionate importance during the next contract negotiation.

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Philip K. Piele accompanied the author during the interviews with Superintendents Clemans and Cox and led those interviews.

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